

Case No. DC-20-01121

ALAN SEVADJIAN, § IN THE DISTRICT COURT
Plaintiff, §
§
v. §
§
TEXAS DEPARTMENT OF §
MOTOR VEHICLES, §
Defendant, §
§
v. §
§
JOHN FRANKLIN COOLEY, JR. §
Intervenor, § 14TH JUDICIAL DISTRICT
§
CONSOLIDATED WITH §
§
FRANCK RADENNE, §
Plaintiff, §
§
v. §
§
DUNTOV MOTOR COMPANY, LLC, §
ALAN SEVADJIAN, and §
EDWARD SEVADJIAN, §
Defendants. § DALLAS COUNTY, TEXAS

PLAINTIFF'S AMENDED ANSWER TO INTERVENOR'S
ORIGINAL PETITION IN INTERVENTION AND COUNTER-PETITION FOR
DECLARATORY JUDGMENT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW ALAN SEVADJIAN, Plaintiff, and files this Amended Answer to Intervenor's Original Petition and Counter-Petition for Declaratory Judgment, and by way of answer shows:

1. Plaintiff ALAN SEVADJIAN denies generally each and every allegation contained in Intervenor's Petition and demands strict proof by a preponderance of the credible evidence.

AFFIRMATIVE DEFENSES

2. For further answer, if any is necessary, Plaintiff asserts the following affirmative defenses against Intervenor JOHN FRANKLIN COOLEY, JR.



3. **Proportional responsibility.** Plaintiff is not liable for the acts alleged in Intervenor's Petition in that one or more responsible third parties were at fault and caused the claimed damages.

4. **Laches.** Intervenor's equitable claims should be barred by the doctrine of laches in that Intervenor's unreasonable delay in bringing the claims caused Plaintiff's change of position in good faith and to its detriment thereby impairing its right to pursue a right or defense.

5. **License.** The Intervenor's claims are barred under the doctrine of license in that Plaintiff was given the legal right to the use of a good or property for which Intervenor now sues.

6. **Statute of limitations.** Plaintiff is not liable for the acts alleged in Intervenor's Petition because Intervenor's claims are barred by the statute of limitations.

7. **Waiver.** Plaintiff affirmatively pleads that between the years of approximately 1981 through present, Intervenor with knowledge that he allegedly possessed a right to the vehicle subject of this suit, intentionally waived the right by expressly relinquishing it or acting in a manner inconsistent with an intent to claim the right, in that Intervenor did not diligently pursue recovery of his alleged vehicle. Consequently, Intervenor has waived the right to seek possession and/or ownership of the vehicle subject of this suit as sought in his Petition.

8. **One Satisfaction Rule.** Plaintiff affirmatively alleges that Intervenor has suffered only one alleged injury and therefore can recover only one satisfaction for damages arising from that injury. Intervenor is thus barred from recovering more than the amount required for full satisfaction of his alleged damages.

COUNTER-PETITION FOR DECLARATORY JUDGMENT

Plaintiff, ALAN SEVADJIAN, files this counter-petition for declaratory judgment against Intervenor, JOHN FRANKLIN COOLEY, JR., and alleges as follows:

DISCOVERY

9. Discovery in this case is controlled by Level 2 of TRCP 190.3.

CLAIM FOR RELIEF

10. Plaintiff seeks monetary relief of \$100,000 or less and nonmonetary relief. *Tex. R. Civ. P. 47 (c)(2).*

FACTS

11. In or about May of 2018, Plaintiff purchased a certain vehicle bearing Vehicle Identification Number 1946785422741 from its previous owner who purported the vehicle to be

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a 1968 Corvette (hereinafter referred to as the “Vehicle”). The Vehicle has actually been assembled from component parts from various sources as described in detail below.

12. On or about March 26th, 2020, Intervenor filed his Original Petition in Intervention alleging that the vehicle subject of this suit was in fact a certain 1968 Corvette bearing Vehicle Identification Number 194378S422741 (hereinafter referred to as the “Corvette”) that was allegedly purchased by Intervenor in or about 1975 and later stolen from him. *See Intervenor’s Petition in Intervention.* Intervenor is seeking, among other things, a declaratory judgment that title to the Vehicle subject of this suit be declared in Intervenor’s name and that Intervenor be declared to have an immediate and superior right to possession of the Vehicle.

13. A recent inspection of the frame of the Vehicle and additional research have revealed that the frame is not the frame of a 1968 model corvette at all, but rather that of a later model corvette.

14. Additionally, when Plaintiff purchased the Vehicle, it did not even have an engine at all. The current engine in the Vehicle was actually built from two other engines purchased separately from other parties by Plaintiff after he purchased the Vehicle.

15. Brown County Court documents pertaining to the Vehicle indicate that the transmission in the Vehicle at the it was purchased by Plaintiff had been obtained by the previous owner from another party. Moreover, the transmission that is currently in the Vehicle was actually purchased by Plaintiff after his purchase of the Vehicle.

16. The body of the Vehicle is not the original body of the above referenced Corvette, as Brown County Court documents indicate that the previous owner purchased the body of the Vehicle separately from the frame and that the body was a “1968 Corvette Convertible Body” rather than the coupe body that was on Intervenor’s Corvette.

17. The wheels and brakes of the Vehicle are not the wheels and brakes of Intervenor’s Corvette as they were purchased by Plaintiff from another party after his purchase of the Vehicle.

18. Additionally, the Vehicle that is the subject of a transaction between FRANKE RADENNE and DUNTOV MOTOR COMPANY, LLC, has obviously undergone a substantial modification into a racecar which is now valued at approximately \$100,000.

19. Finally, the Vehicle Identification Number was declared to be 1946785422741 by a Brown County Court in 2012, prior to Plaintiff’s purchase of the Vehicle. Court documents from that case referencing the Vehicle confirm that the frame was purchased separately from the body, engine, transmission, and other ancillary parts.

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SUIT FOR DECLARATORY RELIEF

20. Plaintiff incorporates by reference paragraphs 11 through 19 as if fully set forth herein.

21. Plaintiff seeks a declaration from the Court that the frame of the Vehicle is not that of a 1968 corvette and specifically not the frame of Intervenor's Corvette.

22. Plaintiff seeks a declaration from the Court that the engine of the Vehicle is not that of the above referenced Corvette.

23. Plaintiff seeks a declaration from the Court that the transmission of the Vehicle is not that of the above referenced Corvette.

24. Plaintiff seeks a declaration from the Court that the wheels, brakes, and other ancillary component parts obtained and installed by Plaintiff are not that of the above referenced Corvette.

25. Plaintiff seeks a declaration from the Court that the Vehicle cannot be the above referenced Corvette of Intervenors, therefore Intervenor's claim for declaratory relief must be denied.

ATTORNEY FEES

26. Plaintiff is entitled to recover reasonable and necessary attorney fees that are equitable and just under Texas Civil Practice & Remedies Code Section 37.009 because this is a suit for declaratory relief.

CONDITIONS PRECEDENT

27. All conditions precedent to Plaintiff's claim for relief have been performed or have occurred.

PRAYER

WHEREFORE, Plaintiff ALAN SEVADJIAN requests judgment of the Court declaring the findings set forth herein and that Intervenor JOHN FRANKLIN COOLEY, JR., take nothing by this suit, and that Plaintiff recover all costs incurred in defense of Intervenor's claim, attorney fees, and for such other and further relief to which Plaintiff may be justly entitled.

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Respectfully Submitted,

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Plaintiff's Amended Answer to Intervenor's Original Petition and Counter-Declaratory Action - Page 5

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing has, on this 31st day of July, 2020, been sent in accordance with Rule 21a via electronic delivery to:

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ATTORNEY FOR FRANCKE RADENNE

/s/ Matthew S. Hahn
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*ATTORNEY FOR PLAINTIFF ALAN
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Automated Certificate of eService

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Chris Hahn on behalf of Matthew Hahn
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Associated Case Party: JOHNFRANKLINCOOLEY

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